

By: Zaffirini

S.B. No. 36

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of certain guardianship programs.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter H, Chapter 1104, Estates Code, is amended by adding Section 1104.359 to read as follows:

Sec. 1104.359. EFFECT OF LACK OF REQUIRED REGISTRATION.

(a) A guardianship program may not be appointed guardian:

(1) if the program is not registered as required under Subchapter D, Chapter 155, Government Code;

(2) if a registration certificate issued to the program under Subchapter D, Chapter 155, Government Code, is expired or has been revoked and not been reissued; or

(3) during the time a registration certificate issued to the program under Subchapter D, Chapter 155, Government Code, is suspended.

(b) This section does not prevent the appointment, on the individual's own behalf, of an individual who is employed by or contracts with a guardianship program to provide guardianship and related services independently of the program.

SECTION 2. Section 155.101(a), Government Code, is amended to read as follows:

(a) The commission shall adopt minimum standards for:

(1) the provision of guardianship services or other similar but less restrictive types of assistance or services by:

1 (A) individuals employed by or contracting with
2 guardianship programs to provide the assistance or services on
3 behalf of the programs; and

4 (B) private professional guardians; and

5 (2) the provision of guardianship services by the
6 Department of Aging and Disability Services.

7 SECTION 3. Subchapter C, Chapter 155, Government Code, is
8 amended by adding Section 155.106 to read as follows:

9 Sec. 155.106. PROHIBITED EMPLOYMENT. A guardianship
10 program may not employ an individual to provide guardianship and
11 related services on the program's behalf:

12 (1) if a certificate issued to the individual under
13 this subchapter is expired or has been revoked and not been
14 reissued; or

15 (2) during the time a certificate issued to the
16 individual under this subchapter is suspended.

17 SECTION 4. Chapter 155, Government Code, is amended by
18 adding Subchapter D to read as follows:

19 SUBCHAPTER D. REGULATION OF GUARDIANSHIP PROGRAMS

20 Sec. 155.151. APPLICATION OF SUBCHAPTER. This subchapter
21 does not apply to guardianship and related services provided by a
22 guardianship program under a contract with the Health and Human
23 Services Commission.

24 Sec. 155.152. STANDARDS FOR OPERATION OF GUARDIANSHIP
25 PROGRAMS. (a) The commission, in consultation with the Health and
26 Human Services Commission and other interested parties, shall adopt
27 minimum standards for the operation of guardianship programs.

1 (b) The commission shall design the standards to monitor and
2 ensure the quality of guardianship and related services provided by
3 guardianship programs.

4 (c) Standards adopted under this section must be designed to
5 ensure continued compliance by a guardianship program with this
6 chapter and other applicable state law.

7 Sec. 155.153. REGISTRATION REQUIRED FOR GUARDIANSHIP
8 PROGRAMS. (a) A guardianship program may not provide guardianship
9 and related services to an incapacitated person or other person
10 described by Section 155.001(4) unless the program is registered
11 with and holds a certificate of registration issued by the
12 commission under this subchapter.

13 (b) The supreme court shall adopt rules and procedures for
14 issuing, renewing, suspending, or revoking a registration
15 certificate under this section. Rules adopted by the supreme court
16 under this section must:

17 (1) ensure compliance with the standards adopted under
18 Section 155.152;

19 (2) provide that the commission establish
20 qualifications for obtaining and maintaining a registration
21 certificate;

22 (3) provide that a registration certificate expires on
23 the second anniversary of the date the certificate is issued;

24 (4) prescribe procedures for accepting complaints and
25 conducting investigations of alleged violations by guardianship
26 programs of the standards adopted under Section 155.152 or other
27 violations of this chapter or other applicable state law; and

1 (5) prescribe procedures by which the commission,
2 after notice and hearing, may suspend or revoke the registration
3 certificate of a guardianship program that does not substantially
4 comply with the standards adopted under Section 155.152 or other
5 provisions of this chapter or other applicable state law.

6 Sec. 155.154. REGISTRATION DATABASE. (a) The commission
7 shall make available on the commission's Internet website a
8 publicly accessible list of all registered guardianship programs.
9 The list must contain the following for each guardianship program:

10 (1) the information provided under Section
11 155.105(a); and

12 (2) whether the guardianship program holds in good
13 standing a registration certificate under this subchapter.

14 (b) The commission shall update the list described by
15 Subsection (a) at least quarterly.

16 SECTION 5. (a) As soon as practicable after the effective
17 date of this Act, the Judicial Branch Certification Commission and
18 the Supreme Court of Texas shall adopt the standards and rules,
19 respectively, necessary to implement Subchapter D, Chapter 155,
20 Government Code, as added by this Act.

21 (b) A guardianship program is not required to hold a
22 registration certificate issued under Section 155.153, Government
23 Code, as added by this Act, until September 1, 2018.

24 SECTION 6. This Act takes effect September 1, 2017.